



2815
January 19, 2001

Commissioner of Patents and Trademarks

Washington, D.C. 20231

Attn: Art Unit 2815 - P. Brock II

From: George O. Saile, Reg. No. 19,572

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Subject: | Serial No.: 09/413,177 | 10/07/99 |

Lap Chan et al.

A METHOD TO FABRICATE HORIZONTAL AIR
COLUMNS UNDERNEATH METAL INDUCTOR

| Art Group: 2815 P. Brock II |

RESPONSE TO RESTRICTION REQUIREMENT

This is in response to the Restriction or ~~Election~~
Requirement in the Office Action dated 01/03/01. In that
Office Action, restriction was required to one of two stated

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being
deposited with the United States Postal Service as first class
mail in an envelope addressed to: Commissioner of Patents and
Trademarks, Washington, D.C. 20231, on January 22, 2001.

Stephen B. Ackerman, Reg.# 37761

Signature/Date

SBA

Inventions under 35 U.S.C. 121. The Inventions stated are Group I - Claims 1-18 to a process, classified in Class 438, subclass 400 and Group II - Claims 19-21 to the product made, classified in Class 257, subclass 1+.

Applicant provisionally elects to be examined the Invention described by the Examiner as Group I - Claims 1-18 drawn to a process classified in Class 438, subclass 400. This election is made with traverse of the requirement under 37 C.F.R.1.143 for the reasons given in the following paragraphs.

The Examiner is respectfully requested to reconsider the Requirement for Restriction given in the Office Action. The Examiner gives the reason for the distinctness of the two inventions as (1) that the process as claimed can be used to make other and materially different products or (2) that the product as claimed can be made by another and materially different process (MPEP 806.05(f)). However, upon reading the product Claims against the process Claims one can readily see that the product Claims are directed to "a multilevel structure containing horizontal air cavities in support of a metal inductor" and the process Claims are directed to "a method of forming air gaps within an integrated circuit structure", it is necessary to obtain claims in both the product and method claim language. The method Claims necessarily use the product and vice versa. The field of search must necessarily cover both the method class/subclass 438/400 and products class 257/1+ in

addition to other related Classes and subclasses to provide a complete and adequate search. The fields of search for the Group I and Group II inventions are clearly and necessarily co-extensive. The Examiner's suggestion that "the product as claimed can be made by another and materially different process (MPEP 806.05(f)). In the instant case the product made could be formed by isotropically etching a dielectric layer in multiple steps to create horizontal air cavities in support of a metal inductor", is very speculative and really has nothing to do with the Claims as presented in this Patent Application. Further, it is respectfully suggested that these reasons are insufficient to place the additional cost of a second Patent Application upon the Applicants. Therefore, it is respectfully requested that the Examiner withdraw this restriction requirement for these reasons.

Withdrawal of the Restriction Requirement and the Allowance of the present Patent Application is requested.

Sincerely,



Stephen B. Ackerman, Reg.# 37761